

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20383
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On June 18, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner), proposing income tax, penalty, and interest for taxable years 2004 and 2005 in the total amount of \$3,888.

The petitioner filed a timely appeal. She did not request a hearing. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Tax Commission records showed the petitioner was an Idaho resident who appeared to meet the Idaho individual income tax filing requirements. The Bureau contacted the petitioner for an explanation of why her 2004 and 2005 Idaho returns had not been filed. She responded by sending tax protestor materials including documents she filed with the Internal Revenue Service (IRS).

[Redacted].

The Bureau prepared 2004 and 2005 Idaho returns on behalf of the petitioner and sent her a NODD. The petitioner appealed the determination with complaints about the Bureau's determination and typical tax protestor arguments. The Bureau sent a letter acknowledging the taxpayer's protest and transferred the file to the Legal/Tax Policy Division for administrative review.

The petitioner did not respond to a letter from the Tax Policy Specialist that outlined her appeal rights. To date, the Tax Commission has not received the petitioner's 2004 and 2005 Idaho individual income tax returns, and she has given no indication as to when the returns might be expected.

In the petitioner's letter of protest, she questions the authority of the Idaho State Tax Commission to take hostile action against her. Idaho Code § 63-3013 states that any individual who is domiciled in the state of Idaho is a resident. The petitioner does not dispute that she lived in [Redacted] Idaho, for both entire taxable years and was otherwise domiciled in [Redacted]. As set forth in the statute, the petitioner is an Idaho resident.

The Idaho income tax filing requirements are set out in the Idaho statute. Idaho Code § 63-3030 provides that every resident who has gross income, as defined by Section 61(a) of the Internal Revenue Code, exceeding a specified dollar amount is required to file an Idaho individual income tax return. The filing threshold amount for a single individual was \$7,950 for the taxable year 2004 and \$8,200 for the taxable year 2005. The petitioner's income information reported on Forms W-2 and 1099 demonstrates the petitioner received gross income in excess of these statutory threshold amounts of income that triggers a single person's obligation to file an Idaho return.

Persons who are required to file an Idaho individual income tax return must pay Idaho income tax on their taxable income at the rate set forth in Idaho Code § 63-3024. Contrary to the petitioner's arguments, she had taxable income subject to Idaho individual income tax. In sum, the petitioner was required to file an Idaho individual income tax return and pay the Idaho income tax that was correctly due on those returns.

Idaho law directs the Commission to determine the correct amount of tax a person owes and to issue a Notice of Deficiency Determination when a deficiency is found.

63-3045. Notice of Redetermination or Deficiency -- Interest.

(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery . . .

As stated above, the specialist found the information reported by the petitioner's employers and other persons in the Forms W-2 and 1099 indicated the petitioner was required to file and report her income. Because the petitioner was domiciled in Idaho and was an Idaho resident, the specialist correctly determined the petitioner's income was subject to Idaho individual income tax, prepared provisional returns, and issued a Notice of Deficiency Determination.

It is well settled in Idaho that provisional returns determined by the Idaho State Tax Commission are presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Com'n, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioner to show that the tax deficiency is erroneous. Id. The petitioner failed to show that the provisional returns prepared by the Tax Commission were incorrect. Therefore, based on the information available, the Tax Commission finds the provisional returns to be a fair representation of the petitioner's taxable income for the taxable years in question and that the amounts shown due on the Notice of Deficiency Determination are true and correct.

WHEREFORE, the Notice of Deficiency Determination dated June 18, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty,
and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$1,007	\$252	\$159	\$1,418
2005	1,855	464	182	<u>2,501</u>
			TOTAL DUE	\$3,919

Interest is computed through October 15, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.